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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
09/846,706	04/30/2001	Thomas C. Kuracina	INJEC-016C1	4926
75	12/31/2002			
STETINA BRUNDA GARRED & BRUCKER 75 Enterprise, Suite 250 Aliso Viejo, CA 92656			EXAMINER	
			MENDEZ, MANUEL A	
			ART UNIT	PAPER NUMBER
			3763	#13
			DATE MAILED: 12/31/2002	-1110

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

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Office Action Summary    Examiner			Application No.	Applicant(s)			
Manuel Mendez   3763	Office Action Summary		09/846,706	KURACINA ET AL.			
- The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply  A SHORTENEO STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE a MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Exencions of the map by a swillow inder the provisions of 3 CFR 1.136(b). In or overt, however, may a reply be timely filled after 5X (5) MONTHS from the mailing date of the communication.  If No period for may be specified under the provisions of 3 CFR 1.136(b). In or overt, however, may a reply be timely filled after 5X (5) MONTHS from the mailing date of the communication.  If No period for may be specified above, the maintain studiory period vall garbary and will apple 81(b) MONTHS from the mailing date of this communication.  Failure to reply within the studiors, the maintain studiory period vall garbary and will apple 81(b) MONTHS from the mailing date of this communication.  Failure to reply within the studiors, the maintain studiors are supported to the communication to the communication to the communication to the communication of the maintain studiors are supported to the communication to the communication of the supported to the communication to the communication of the maintain studiors are supported to the communication to the maintain studiors are supported to the communication of the maintain studiors are supported to the provision of the maintain studiors.  1) □ Responsive to communication (s) filled on			Examiner	Art Unit			
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1) Responsive to communication(s) filed on  2a) This action is FINAL. 2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 14-23 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are allowed.  6) Claim(s) is/are objected to.  8) Claim(s) are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) cecepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11) The proposed drawing correction filed on is: a) approved by disapproved by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12) The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some Ol None of:  1 Certified copies of the priority documents have been received in Application No  3 Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  *See the attached detailed Office action for a list of the certified copies on the received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 119(e) (to a provisional application).  a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 119(e) (to a provisional application).  a) The translation of the foreign language provisional application has been received.	THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).  - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).						
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## **DETAILED ACTION**

## Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (e) the invention was described in-
- (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
- (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 14-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Wochr, et al. The cited patent shows in figures 1-11b, a needle protective device comprising an elongate needle having proximal and distal ends and a change in axis formed intermediate the proximal and distal ends; a needle guard mounted on the needle and slidable along a portion of the needle between the proximal end and the change in axis, the

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needle guard being engageable with the change in axis such that the distal adjacent of the needle guard is stopped at the change in axis, the needle guard having a needle trap for covering the sharpened distal end of the needle substantially coincident with when the needle guard engages the change in axis.

Please note in the figures of the cited patent that the change in profile defined by a change in axis is defined by at least one outwardly bulging sidewall (figures 10A and 10B) or a recessed change in profile (figures 7A and 7B).

## Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory

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period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Manuel Mendez whose telephone number is 703-308-2221. The examiner can normally be reached on 0730-1800 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Brian Casler can be reached on 703-308-3552. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

Manuel Mendez Primary Examiner

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December 29, 2002